

D. If a request for release of information is from a Federal Agency, as identified in E.O. 12333, authorized to conduct foreign intelligence or foreign counterintelligence activities, the transferring DoD Component shall release the information without notifying the customer, unless permission to provide notification is given in writing by the requesting Agency.

E. Whenever financial data obtained under this part is incorporated into a report of investigation or other correspondence; precautions must be taken to ensure that:

1. The reports or correspondence are not distributed outside the Department of Defense except in compliance with paragraph B.; and

2. The report or other correspondence contains an appropriate warning restriction on the first page or cover. Such a warning could read as follows:

“Some of the information contained herein (cite specific paragraph) is financial record information which was obtained pursuant to the Right to Privacy Act of 1978, 12 U.S.C. 3401 *et seq.* This information may not be released to another Federal Agency or Department outside the Department of Defense except for those purposes expressly authorized by Act.”

APPENDIX H TO PART 275—PROCEDURES FOR DELAY OF NOTICE

A. The customer notice required when seeking an administrative subpoena or summons (paragraph B. of appendix C to this part), obtaining a search warrant (paragraph B. of appendix D to this part), seeking a judicial subpoena (paragraph B. to appendix C to this part), making a formal written request (paragraph B. to appendix C to this part), obtaining emergency access (paragraph C. of appendix F to this part), or transferring information (paragraph C. of appendix G to this part), may be delayed for an initial period of 90 days and successive periods of 90 days. The notice required when obtaining a search warrant (paragraph B. of appendix D to this part) may be delayed for a period of 180 days and successive periods of 90 days. A delay of notice may only be made by an order of an appropriate court if the presiding judge or magistrate finds that:

1. The investigation is within the lawful jurisdiction of the Government authority seeking the records.

2. There is reason to believe the records being sought are relevant to a law enforcement inquiry.

3. There is reason to believe that serving the notice will result in:

a. Endangering the life or physical safety of any person.

b. Flight from prosecution.

c. Destruction of or tampering with evidence.

d. Intimidation of potential witnesses.

e. Otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same degree as the circumstances in paragraphs A.2.a. through A.2.d. of this appendix.

B. When a delay of notice is appropriate, legal counsel shall be consulted to obtain such a delay. Application for delays of notice shall be made with reasonable specificity.

C. Upon the expiration of a delay of notification obtained under paragraph A. of this appendix for a search warrant, the law enforcement office obtaining such records shall mail to the customer a copy of the search warrant, along with the following notice:

“Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this [agency or department] on [date].

Notification was delayed beyond the statutory 180-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning [state with reasonable specificity]. You may have rights under the Right to Financial Privacy Act of 1978.”

D. Upon the expiration of all other delays of notification obtained under paragraph A. of this appendix, the customer shall be served with or mailed a copy of the legal process or formal request, together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry.

“Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of the court ordering the delay) under the Right to Financial Privacy Act of 1978 that such notice might (state the reason). The purpose of the investigation or official proceeding was (state the purpose).”

APPENDIX I TO PART 275—FORMAT FOR OBTAINING BASIC IDENTIFYING ACCOUNT INFORMATION

[Official Letterhead]

[Date]

Mr./Mrs. XXXXXXXXXXXX
Chief Teller [as appropriate]
First National Bank
Anywhere, VA 00000-0000

Dear Mr./Mrs. XXXXXXXXXXXX

In connection with a legitimate law enforcement inquiry and pursuant to section 3413(g) of the Right to Financial Privacy Act

Office of the Secretary of Defense

Pt. 275, App. J

of 1978, 12 U.S.C. 3401 et. seq., you are requested to provide the following account information:

[Name, address, account number, and type of account of any customer or ascertainable group of customers associated with a financial transaction or class of financial transactions.

I hereby certify, pursuant to section 3403(b) of the Right of Financial Privacy Act of 1978, that the provisions of the Act have been complied with as to this request for account information.

Under section 3417(c) of the Act, good faith reliance upon this certification relieves your institution and its employees and agents of any possible liability to the customer in connection with the disclosure of the requested financial records.

[Official Signature Block]

APPENDIX J TO PART 275—FORMAT FOR CUSTOMER AUTHORIZATION

Pursuant to section 3404(a) of the Right to Financial Privacy Act of 1978, I, [Name of customer], having read the explanation of my rights on the reverse side, hereby authorize the [Name and address of financial institution] to disclose these financial records: [List the particular financial records] to [DoD Component] for the following purpose(s): [Specify the purpose(s)].

I understand that the authorization may be revoked by me in writing at any time before my records, as described above, are disclosed, and that this authorization is valid for no more than three months from the date of my signature.

Signature: _____

Date: _____

[Typed name]

[Mailing address of customer]

STATEMENT OF CUSTOMER RIGHTS UNDER THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

Federal law protects the privacy of your financial records. Before banks, savings and loan associations, credit unions, credit card issuers, or other financial institutions may give financial information about you to a Federal Agency, certain procedures must be followed.

AUTHORIZATION TO ACCESS FINANCIAL RECORDS

You may be asked to authorize the financial institution to make your financial records available to the Government. You may withhold your authorization, and your authorization is not required as a condition of doing business with any financial institution. If you provide authorization, it can be revoked in writing at any time before your records are disclosed. Furthermore, any au-

thorization you provide is effective for only three months, and your financial institution must keep a record of the instances in which it discloses your financial information.

WITHOUT YOUR AUTHORIZATION

Without your authorization, a Federal Agency that wants to see your financial records may do so ordinarily only by means of a lawful administrative subpoena or summons, search warrant, judicial subpoena, or formal written request for that purpose. Generally, the Federal Agency must give you advance notice of its request for your records explaining why the information is being sought and telling you how to object in court.

The Federal Agency must also send you copies of court documents to be prepared by you with instructions for filling them out. While these procedures will be kept as simple as possible, you may want to consult an attorney before making a challenge to a Federal Agency's request.

EXCEPTIONS

In some circumstances, a Federal Agency may obtain financial information about you without advance notice or your authorization. In most of these cases, the Federal Agency will be required to go to court for permission to obtain your records without giving you notice beforehand. In these instances, the court will make the Government show that its investigation and request for your records are proper. When the reason for the delay of notice no longer exists, you will be notified that your records were obtained.

TRANSFER OF INFORMATION

Generally, a Federal Agency that obtains your financial records is prohibited from transferring them to another Federal Agency unless it certifies in writing that the transfer is proper and sends a notice to you that your records have been sent to another Agency.

PENALTIES

If the Federal Agency or financial institution violates the Right to Financial Privacy Act, you may sue for damages or seek compliance with the law. If you win, you may be repaid your attorney's fee and costs.

ADDITIONAL INFORMATION

If you have any questions about your rights under this law, or about how to consent to release your financial records, please call the official whose name and telephone number appears below:

(Last Name, First name, Middle Initial)
Title
(Area Code) (Telephone number)